

SUPREME COURT OF NORTH CAROLINA

Grover Franklin Minor and Caroleen W. Minor v. Sandra Ann Minor

Minor v. Minor, 366 N.C. 526 (2013) · No. No. 25A13 · Decided June 13, 2013

SUMMARY

The Supreme Court of North Carolina affirmed the Court of Appeals in a dispute over whether the defendant was entitled to an adverse-possession jury instruction covering only part of a 23.72-acre parcel. The Court held that although North Carolina recognizes adverse possession of an identified portion of property, the defendant neither pleaded nor presented evidence supporting a claim limited to a specified portion under known and visible boundaries.

CASE DETAILS

COURT	Supreme Court of North Carolina
WRITING FOR THE COURT	Edmunds, Justice
JURISDICTION	North Carolina
DECIDED	June 13, 2013
DOCKET	No. 25A13
DISPOSITION	affirmed
PROCEDURAL POSTURE	Defendant appealed as of right to the Supreme Court of North Carolina under N.C.G.S. § 7A-30(2), based on a dissent in the Court of Appeals, challenging the trial court's refusal to give a requested jury instruction concerning adverse possession of less than the entire parcel.
STANDARD OF REVIEW	De novo review of whether the requested jury instruction was legally correct and supported by the evidence; failure to give a correct, evidence-supported requested instruction constitutes reversible error.
PRECEDENTIAL VALUE	Published opinion; precedential
PARTIES	Sandra Ann Minor v. Grover Franklin Minor, Caroleen W. Minor

TOPICS

- adverse possession
- real estate
- appellate procedure
- civil procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the trial court was required to instruct the jury that defendant could acquire title by adverse possession to only a portion of the 23.72-acre parcel.
2. Whether defendant's pleading and evidence supported an instruction permitting the jury to determine what portion of the parcel she had adversely possessed.

HOLDINGS

1. A party claiming adverse possession of a specified portion of another's parcel is entitled to an instruction permitting the jury to find adverse possession of that portion when the party has specifically pleaded the portion and presented evidence satisfying the elements of adverse possession, including possession under known and visible lines and boundaries and a claim limited to the area actually possessed.
2. Defendant was not entitled to the requested instruction because her counterclaim did not identify a specific portion of the property and her testimony and other evidence consistently asserted adverse possession of the entire 23.72-acre tract.

KEY QUOTATIONS

“North Carolina recognizes claims for adverse possession of an identified portion of property owned by another.”

“Accordingly, defendant was not entitled to an instruction on adverse possession of a portion of the property, and the trial court did not err when it declined to give her proposed instruction.”

FACTUAL BACKGROUND

Plaintiffs held title to a 23.72-acre parcel in Guilford County, North Carolina, where defendant lived with their son beginning around 1984. After the son moved away and plaintiffs later demanded that defendant vacate during divorce proceedings, plaintiffs brought a summary-ejectment action. Defendant counterclaimed for adverse possession, but consistently claimed the entire 23.72-acre tract rather than a specifically identified portion, despite evidence that most improvements were concentrated on approximately eight acres.

PROCEDURAL HISTORY

Plaintiffs obtained a summary-ejectment judgment against defendant in March 2010. Defendant appealed, answered, and counterclaimed to quiet title by adverse possession. After a jury found that defendant had not satisfied all requirements for adverse possession, the district court entered judgment for plaintiffs and denied post-trial motions. The Court of Appeals affirmed in a divided decision, and the Supreme Court affirmed the Court of Appeals.

DISPOSITION

affirmed

CASES CITED

- Minor v. Minor, ___ N.C. App. ___, 737 S.E.2d 116 (2012)
- Wallin v. Rice, 232 N.C. 371, 61 S.E.2d 82 (1950)
- Calhoun v. State Highway & Public Works Commission, 208 N.C. 424, 181 S.E. 271 (1935)
- State v. Davis, 291 N.C. 1, 229 S.E.2d 285 (1976)
- Bass v. Hocutt, 221 N.C. 218, 19 S.E.2d 871 (1942)
- Dockery v. Hocutt, 357 N.C. 210, 581 S.E.2d 431 (2003)

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